IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5889 of 1984

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE RAVI R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

---

MAHAGUJARAT MILL MAZDOOR UNION

Versus

STATE OF GUJARAT

---

Appearance:
Shri GIRISH PATEL for Petitioner No. 1
Shri N.D. Gohil, ASSTT GOVERNMENT PLEADER for Respondent No. 1,3
Shri KS NANAVATI for Respondent No. 4

---

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 11/09/2001

ORAL JUDGEMENT (Per : MR.JUSTICE RAVI R.TRIPATHI)

The petitions was filed by Maha Gujarat Mill Mazdoor Union, a registered trade union through its President. There are two main prayers in this petition.

One, that the textile mills in Ahmedabad be directed to implement and scrupulously observe the provisions of the Factories Act, 1948 and all other labour laws applicable to the workmen working in the textile mills insofar as they relate to running of 'Rokdi' system on any holidays or during rest period on any working day and to prevent continuance of such practice in violation of the provisions of the Factories Act and other labour laws.

Another, direct respondent no.3 to locate and identify the licensed or unlicensed contractors engaged in the work of contract labour for the regular work of the textile mills and to ensure that a strict enforcement of and compliance with the provisions of all labour laws in regard to the workmen employed or engaged by such contractors.

2. This Court by an order dated 20.8.1985 recorded that,

> "Mr.K.S. Nanavati, the learned advocate for Ahmedabad Textile Mills Association (respondent no.4) states that the Association will issue a circular letter directing all its member-- Mills and advising all the non member-- Mills to put a total stop to the 'Rokdi' system, if prevailing in their mills. He states that the circular letter will be issued within a week and a copy thereof will be placed on the record of the present proceedings.
>
> .. .. .."

Liberty was granted to the petitioner that after fifteen days of the issuance of the said circular, if the petitioners still feel that the system continues to prevail, they may apply to this Court for appropriate orders in that behalf so far as the offending mill is concerned. The Court also directed respondents no.2 and 3 to undertake a survey in that behalf by random surprise visits to the Mills fifteen days after the issuance of the circular letter and report to the Court whether or not the 'Rokdi' system has totally ceased.

3. After order dated 20.8.1985, respondent no.4 issued a circular letter to the Textile Mill on 21.8.1985 advising all its member and non member-- Mills to

forthwith discontinue 'Rokdi' system, if in vogue in their Mill. A copy of said circular was taken on record on 29.8.1985. While taking it on record this Court clarified that if despite the issuance of this circular letter they have positive information that the 'Rokdi' system continues in any particular mill, the petitioner may move this Court for further directions.

4. The Court then passed an order on 16.9.1985 wherein it is observed that,

"As regards the second grievance also, the fourth respondent has issued another circular letter dated 10th September 1985 to all its member and non-- member mills advising them as under:

"1. The employees employed through various contractors should not be paid less then the minimum wage as are being fixed by the Office of the Commissioner of Labour under the provisions of the Cataract Labour (Regulation and Abolition) Act. However, if such employees are engaged in higher skilled jobs than the unskilled jobs, then, they should be paid wages accordingly as fixed by the Office of the Commissioner of Labour.

2. The mills should ensure that the contractors supply attendance cards to their respective employees showing that they are employed by the contractor concerned in the particular department and that the contractors maintain regular muster rolls indicating the presence of the employees correspondingly shown in the cards issued to them by the concerned contractor." "

xxx xxx xxx

".. .. Now that the fourth respondent has at our instance issued circular letter to the textile mills covering both the grievances, the immediate need is to set up a mechanism to ensure its implementation and to take stern action against defaulters. With this in view, we issue the following interim directions:

The second and the third respondents should within a week set up a squad of five officers to be headed by a Senior Class I Officer to pay surprise visits to the textile mills with

> a view to ensuring the implementation of the directions contained in the circular letters and to report defaulters for appropriate action. Five learned advocates of this Court have been good enough to offer their services to the squad to be constituted. The squad will also request the recognised Union for the concerned mill to depute a representative with the squad at the time of the proposed surprise visit. After each visit, the squad will make a report to this Court and seek further necessary directions. The immediate task of the squad will be to see that the 'Rokdi' system, wherever it exists, is rooted out to the extent it is in contravention of the Factories Act, 1948. As regards the grievances made so far as the employment of the contract labour is concerned, the immediate task of the squad as well as the concerned respondent would be to arrange the schedule of payment of wages to the employees in the presence of one of the squad members and an advocate of this Court and securing of identity cards for the employees and maintenance of proper records. The respondents nos.2 and 3 are directed to see to it that the members of the squad are left free to attend to and give top priority to this task. The squad will carry out such directions as may be given by this court from time to time. .. .."

5. After order dated September 16, 1985 the Court passed an order on January 16, 1986, permitting the Self Employed Women's Association (SEWA) who expressed desire by an application to extend its helping hand to curb the large scale exploitation of the poor labourers. The Court took note of the report of Ms.Sujata Patel dated 21.12.1984 prepared at the instance of SEWA. The Court allowed the application made by the Secretary, SEWA and it was directed that SEWA be impleaded as petitioner no.2 and one of their representatives be taken on the squad appointed by this Court.

6. Shri Girish Patel, learned advocate appearing for the petitioners submits that by and large the grievances of petitioner no.1 doe not survive as on date. Shri Patel submitted that with the interim directions issued by this Court as aforesaid, the grievance of petitioner no.1 is redressed and for the present the petitioners do not have anything to complain about the aforesaid 'Rokdi' system or the contract labour. However, Mr.Patel requested that this may not be treated as petitioner no.1 giving up its challenge to the 'Rokdi' system but if in

future the said system is again adopted by any of the Mills in any form, liberty may be granted to petitioner no.1 to move the Court. It goes without saying that if 'Rokdi' system is again practised by the respondents, it is always open to the petitioners to take recourse to such remedies as are available under law.

7. With the observations aforesaid, the petition is disposed of. Rule is discharged with no order as to costs.

(D.M. Dharmadhikari, C.J.)

(Ravi R. Tripathi, J.)

karim